



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 20/248

Appeal by Dominic Hoare of Brackloon, Annascaul, County Kerry and by Martin Sayers and Others of Main Street, Annascaul, County Kerry against the decision made on the 5th day of August, 2020 by Kerry County Council to grant subject to conditions a permission to Rory O'Shea care of Moriarty Design and Construction of An Nead, Ardrinane, Annascaul, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construct a dwelling house with a lower ground floor granny flat including connection to the public sewer and all necessary site works at Brackloon, Annascaul, County Kerry.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the provisions of the Kerry County Development Plan 2015-2021 and the Dingle Functional Area Local Area Plan 2012-2018 (as extended), to the existing pattern of development in this village location, and to the design, layout and limited scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The first-floor window to Bedroom 6 on the eastern elevation shall be omitted.
 - (b) The bathroom window at first floor level on the eastern elevation shall be glazed with obscure glass.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity.

3.
 - (a) The use of the dwelling house and granny flat shall be restricted to private residential accommodation which shall be used as primary permanent all year-round residences.
 - (b) Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 and any statutory provision modifying or replacing them, no room in the proposed dwelling units shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

- (c) The proposed dwelling and granny flat shall be jointly occupied as a single residential unit and the lower ground floor shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling. The proposed granny flat shall be used solely for that purpose and shall revert to use as part of the main dwelling on the cessation of such use.

Reason: To restrict the use of the site in the interest of residential amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. (a) The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.
- (b) The existing front boundary wall shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

John Connolly

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board**

Dated this day of 2020